

CL MK

**James Young**, OSB No. 85373  
jyoung@oregonlawcenterorg  
**Oregon Law Center**  
455 S. 4th Street, Ste. 5  
PO Box 1098  
Coos Bay OR 97420  
Telephone: 541/269-2616  
Fax: 541/269-1372

FILED 09 JUN 24 13:27 USDC-ORP

**Hope A. Del Carlo**, OSB No. 00241  
hdelcarlo@oregonlawcenterorg  
**Spencer M. Neal**, OSB No. 77286  
mneal@oregonlawcenter.org  
**Oregon Law Center**  
921 SW Washington St., Suite 516  
Portland, OR 97205  
Telephone: 503/473-8319  
Facsimile: 503/295-0676

Attorneys for Plaintiffs John Woodworth and Gilda Hodges

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOHN WOODWORTH AND GILDA  
HODGES;

Case No. **CV '09 - 3058 - CL**

Plaintiffs,

COMPLAINT

v.

(Truth in Lending Act)

BANK OF AMERICA, NATIONAL  
ASSOCIATION, as successor in interest  
to COUNTRYWIDE BANK, FSB;  
Defendant

DEMAND FOR JURY TRIAL

INTRODUCTION:

1.

This case arises out of a refinanced consumer home loan. The borrowers, John Woodworth and Gilda Hodges, are a disabled couple living on a fixed income who were

convinced to refinance their mortgage with Countrywide several times, each time folding new loan fees and costs into their loan. The plaintiffs were not given accurate Truth in Lending disclosures at the closing of their most recent refinance in June 2008.

#### JURISDICTION

2.

This court has jurisdiction of the case by virtue of 15 USC § 1640(e) and 28 USC §§ 1331, 1337.

#### PARTIES

3.

The plaintiffs, John Woodworth and Gilda Hodges, are natural persons. Plaintiffs own a home located at 94191 8<sup>th</sup> St., Gold Beach, Oregon, which is and has been at all times material to this action their principal residence.

4.

Defendant Bank of America, National Association, is a national banking association and the successor in interest by merger to Countrywide Bank, FSB, a federally-chartered savings bank.

5.

On information and belief, at all times relevant to this action, Bank of America, NA, and Countrywide Bank, FSB regularly extended or offered to extend consumer credit for which a finance charge is or may be imposed or which, by written agreement, is payable in more than four installments, making them creditors under the Truth in Lending Act ("TILA"), 15 USC § 1602(f) and Regulation Z, 12 CFR § 226.2(a)(17).

#### FACTUAL ALLEGATIONS:

6.

Plaintiffs signed loan documents obligating them to a refinanced home mortgage funded

by Countrywide Bank, FSB, on or about June 28, 2008.

7.

At the closing of plaintiffs' loan, Countrywide Bank, FSB, did not deliver to the plaintiffs accurate, material, complete Truth in Lending disclosures, including but not limited to disclosure of the expiration date of their right to cancel the loan in a form they could keep.

#### FIRST CLAIM FOR RELIEF - Truth in Lending Act

8.

Plaintiffs reallege and incorporate by reference paragraphs 1 through 7.

9.

Defendant's loan to plaintiffs was a consumer credit transaction subject to the plaintiffs' right of rescission pursuant to TILA, 15 USC § 1635, and Regulation Z, 12 CFR § 226.23.

10.

At the consummation of the refinanced loan transaction, the lender failed to deliver to each of the plaintiffs all correct material disclosures required by TILA, including disclosure of their right to cancel the loan within three days, in violation of 12 CFR § 226.15(b)(5).

11.

As a result of the aforesaid violations of TILA, pursuant to 1640(a), defendant is liable to plaintiffs for:

- A. Actual damages in an amount to be determined at trial;
- B. Statutory damages of up to \$4,000.00 for each plaintiff.
- C. Reasonable attorney fees and costs.

#### PRAYER FOR RELIEF:

12.

WHEREFORE, plaintiffs pray for:

1. On their claim for relief under the Truth in Lending Act:

A. Actual damages in an amount to be proven at trial, together with prejudgment interest;

B. Statutory damages under TILA of \$4000.00 for each plaintiff, totaling \$8000.00;

C. Attorneys fees pursuant to 15 USC § 1640(a)(3);

D. Reasonable costs of the action.

JURY DEMAND:

12.

Plaintiffs hereby demand trial by jury.

DATED this 24th day of June, 2009.

OREGON LAW CENTER

By: 

Hope A. Del Carlo, OSB No. 00241

Of Attorneys for Plaintiffs